IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5990 of 2005

Between:

1. Chinthala Laxmi, W/o. Galaiah,
   R/o.Adloor (V), Kamareddy (M), Nizamabad Dist.
2. Mydaboina Narayana, S/o.Balraj,
   R/o.Adloor (V), Kamareddy (M), Nizamabad Dist.
3. Chinthala Manemma, W/o.Siddi Ramulu,
   R/o.Adloor (V), Kamareddy (M), Nizamabad Dist.
4. Chamanthula Narsavva, W/o.Salloo,
   R/o.Adloor (V), Kamareddy (M), Nizamabad Dist.

... PETITIONERS

AND

1 The Dist. Collector, Nizamabad District.
2 The Revenue Divisional officer, Kamareddy.
3 The Mandal Revenue officer, Kamareddy (M), Nizamabad District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Mandamus declaring the proc.No.A2/6689/05, dated:
07-01-2005 on the file of the 3rd respondent herein, in canceling the assignments made in favour of the petitioners herein as illegal and arbitrary and also in violation of the provisions of The A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 as well as The A.P.Assigned Lands (Prohibition of Transfers) Rules, 1977 and consequently set-aside the same by directing the respondents herein not to evict the petitioners from their assigned Lands in Sy.No.527 situated at Adloor (V), Kamareddy (M), and Nizamabad District.

Counsel for the Petitioners: MR.T.BHEEMSEN & T.V.PRANAI KUMAR
Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

ORDER:

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This writ petition is filed aggrieved by the order dated 07-01-2005 passed by the third respondent-Mandal Revenue Officer thereby canceling the assignment granted in favour of the petitioners under the provisions of the Laoni Rules.

It is not in dispute that before passing the said order, a show cause notice dated 30-11-2002 was issued to the petitioners stating that as per the instructions of the Joint Collector, Nizamabad dated 18-11-2002 spot inspection of Government lands assigned to landless poor was conducted on 24-11-2002 and it was noticed that the persons to whom the Government lands were assigned in the year 1978 have not occupied the land and not developed it for agricultural purpose and therefore calling upon them to submit their explanation. The petitioners state that all the allegations made in the show cause notice are incorrect and a detailed explanation was submitted denying the allegations made therein, however, the third respondent-Mandal Revenue Officer passed impugned order without properly appreciating the explanation submitted by the petitioners. Hence, this writ petition seeking a declaration that the order of cancellation dated 07-01-2005 is arbitrary and illegal.

At the out set, the learned Government Pleader, raised an objection as to the maintainability of the writ petition contending that against the impugned order dated 07-01-2005 an efficacious alternative remedy is available by way of an appeal under Section 4-A of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977. The learned counsel for the petitioners does not dispute the same but states that since the impugned proceedings were initiated on the basis of the instructions of the Joint Collector, Nizamabad, the petitioners apprehend that the appeal will be an empty formality and the Revenue Divisional Officer, who is the Appellate Authority, being a subordinate officer to the Joint Collector, may not act independently.

In these circumstances, the writ petition is disposed of granting leave and liberty to the petitioners to workout the alternative remedy of appeal, as provided under the Act, within a period of two weeks from today. It is made clear that in the event of preferring such an appeal, the second respondent-Revenue Divisional Officer shall consider the same independently, without being influenced by the observations, if any, made in the instructions issued by the Joint Collector dated 18-11-2002 and pass appropriate orders in accordance with law, on the basis of the material that may be placed before him by the petitioners in support of their claim. It is also made clear that for a period of four weeks from today, the respondents shall not implement the impugned order. No order as to costs.

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G. ROHINI, J

Dated: 23-03-2005

LSK

To

1 The Dist. Collector, Nizamabad District.
2 The Revenue Divisional officer, Kamareddy.
3 The Mandal Revenue officer, Kamareddy (M), Nizamabad District.

4 Two C.Cs. to the G.P. for Revenue, High Court Buildings, Hyderabad. (OUT)

5 Two C.D. copies.